

## **DISTRICT OF COLUMBIA SUPPORTED DECISION-MAKING AGREEMENT**

### **FREQUENTLY ASKED QUESTIONS AND INSTRUCTIONS**

Starting May 5, 2018, you can use the attached form to make Statutory Supported Decision-Making Agreements (also called “SSDMA”). The District of Columbia law that lets you do this is called the “Disability Services Reform Amendment Act of 2018,” D.C. Law 22-93. *The D.C. Department on Disability Services and Quality Trust for Individuals with Disabilities developed these Frequently Asked Questions and Instructions to explain Supported Decision-Making Agreements and help you understand how to use the SSDMA form.*

#### **A. What is “Supported Decision-Making”?**

Supported Decision-Making (also called “SDM”) is a way people with disabilities can make their own decisions with the help they need and want. To use SDM, you pick friends, family members, and other people you trust to be your “supporters.” Supporters do not make decisions for you. They help you make or communicate your own decisions, such as where or with whom you want to live; what services, supports, or medical care you want to get; where you want to work; and how you want to save or spend your money. Supporters may explain what choices you have in ways you understand, ask other people questions for you, help you gather information, or let others know what you decide. SDM is one alternative to guardianship. It does not take away your legal rights or give your supporters the right to overrule your own decisions. To learn more about SDM, visit the National Resource Center for Supported Decision-Making at [www.SupportedDecisionMaking.org](http://www.SupportedDecisionMaking.org).

#### **B. What is a “Supported Decision-Making Agreement”?**

A Supported Decision-Making Agreement is a way of putting an SDM relationship in writing. That way other people know who your supporters are, what decisions you want them to help you with, how you want them to help you, and for how long you want their help. While you are not required to have a Supported Decision-Making Agreement to use SDM in your life, it can be helpful. District of Columbia law makes it official and says that other people and organizations – such as doctors, hospitals, banks, schools, service providers, and governmental agencies – must respect the support you receive from a supporter. Supported Decision-Making Agreements do not allow a formal supporter to make decisions for you or act in your place. You are the decision-maker.

In D.C., there are two ways you may be able to make a formal Supported Decision-Making Agreement:

- (1) with a Supported Decision-Making Agreement (“SSDMA”) form ([attached to this document](#)), which can be used to help you with many different kinds of life decisions; or
- (2) with a Supported Decision-Making form from DC Public Schools (DCPS) (available at: <https://dcps.dc.gov/node/1138951>) or the Office of State Superintendent of Education (available at: <https://osse.dc.gov/service/education-decision-making>), if you are an adult student in special education and want support with educational decisions.

### **C. Who Can Use The Attached Supported Decision-Making Agreement (“SSDMA”) Form?**

If you are an adult (18 years old or older) and have a disability, you may be able to use the attached SSDMA form.

However, if you have a guardian (a person who a court has named to make some or all decisions for you), you cannot use this form for the decisions that the court has said you cannot make yourself. For example, if you have a limited medical guardian, you cannot use this form to name supporters to help you with medical decisions without court approval. However, if you have a limited medical guardian, you may be able to use this form to name supporters to help you with financial and other non-medical decisions.

Using this form is a choice. You can use it if you want to. You cannot be required or pressured by other people to sign this form. It is your right not to sign this form if you don't want to.

### **D. Who Can and Who Cannot Be Your Formal Supporter under an SSDMA?**

When you use SDM, you should pick supporters you know, trust, and who are good at helping you get the information you need to think through choices and make your own decisions. A person who wants YOU to make YOUR OWN decisions – and won't try and make those decisions for you – would be a good choice. On the other hand, a person who has hurt or taken advantage of you in the past, or who might do that in the future, would not be a good choice.

You may have a lot of different people – such as family members, friends, professionals, and other people you trust – help you use SDM in your life, without using an official SSDMA. However, if you want to use a SSDMA form to record your SDM relationship, there are special rules about who can be your “formal supporter” under the SSDMA:

**(1) Your formal supporter CANNOT:**

- (a) Provide or own/operate any organizations that provide physical, mental, or behavioral health care or disability services to you; or
- (b) Work for any governmental agencies that are responsible for paying for your care. Depending on the services and supports you get, this could be the Department on Disabilities Services, the Department of Health Care Finance, the Department of Behavioral Health, DC Office of Aging, or other governmental agencies.

UNLESS the person is your relative.

**(2) Even if they are your relative, your formal supporter CANNOT:**

- (a) have been found by a government agency to have abused, neglected, or exploited you or harmed a child, older adult, or a person with a disability; or
- (b) have, within the last 7 years, been convicted of certain crimes, included sexual offenses or aggravated assault against a child, older adult, or person with a disability; fraud, theft of \$1,000 or more; forgery; or extortion.

UNLESS you are making a Supported Decision-Making Agreement for educational decisions only.

The restrictions on who can be your formal supporter are listed in the SSDMA form. Your formal supporter must sign the form and say that none of the restrictions apply to them. If a person cannot honestly agree that none of the restrictions apply to them, they cannot be your formal supporter.

#### **E. Once You Know You Can and Want to Make an SSDMA, What Is Next?**

Before you fill out this form, talk to the person you trust to see if they will agree to be your formal supporter. It is a serious responsibility to be a formal supporter, and you want to make sure they understand what all the rules are by reviewing these instructions and the SSDMA form with them.

Once the formal supporter has agreed to help, you should ask yourself what kinds of decisions you want the Supported Decision-Making Agreement to cover. If you only want support with special education decisions, you are not required to complete the SSDMA form. You instead may choose to complete the DCPS or OSSE SDM Forms (see Question B.2 above), which are easier to fill out than the SSDMA form and do not have the same background requirements for your formal supporter (see Question D.2 above).

If you decide you want to complete an SSDMA form, you are not required to have an attorney help you do so. You can use these instructions. In summary, the SSDMA form has four parts.

- In **Part 1**, you identify your formal supporter, with their name, address, phone number, and email address (if any). You then pick which kinds of choices you want your supporter's help with, by circling Y (for "Yes") or N (for "No") for each the options listed. You may also list other duties for your supporter in the space provided. Then you fill in whether you want your supporter to help you get information about the choices you are making, be present with you when you make decisions, help you understand your options, and/or help you communicate your decisions to others.
- In **Part 2**, you identify whether or not you have signed release forms to make sure that your supporter can access private information about you.
  - If the SSDMA covers health care decisions, you should sign a Health Insurance Portability and Accountability Act ("HIPAA") release of information form (example available at: <https://dbh.dc.gov/page/dbh-hipaa-privacy-forms-1-and-3-english-version>), which allows doctors and other health care providers to share private medical information about you with your supporter, and then attach the signed HIPAA form to the SSDMA.
  - If the SSDMA covers educational decisions, you should sign a Family Educational Rights and Privacy Act ("FERPA") release of information form (example available at: <https://osse.dc.gov/publication/accessing-student-education-records>), which allows schools to share private educational information about you with your supporter, and then attach that signed FERPA form to the SSDMA.
- In **Part 3**, you list when the SSDMA is "effective," which means the dates the SSDMA starts and ends. The SSDMA usually starts the date that you sign it, unless you indicate

differently. You can also pick a date that the SSMDA will end or just state that it ends when you or your supporter cancel it.

- In **Part 4**, your supporter and you sign the SSDMA form in front of two witnesses (people other than you and the supporter) or a notary public. When your supporter signs, they are saying “yes” to being your formal supporter and are promising that they meet the background requirements discussed in Question D above. If you do not have two witnesses to sign the form, you must have a notary public sign and put their notary seal on the document.

You may have more than one formal supporter in your life by signing more than one SSDMA – one SSDMA for each supporter.

You should keep the original SSDMA in a safe place and give a copy of it to your formal supporter. You should share copies of the SSDMA with other people and organizations that need to know about it. For example, if your supporter helps you make your own medical decisions, you should give a copy of the agreement to your doctors, nearby hospitals, and other health care providers to let them know that you have an SSDMA with a named supporter who helps you with medical decisions. If you have an attorney or advocate, you might want them to have a copy, too. You do not need to submit your SSDMA to a court for approval.

#### **F. How Do You Change or Cancel an SSDMA?**

You or your formal supporter may cancel your SSDMA at any time. It is a good idea to put your cancellation in writing, so that you and other people have proof that the SSDMA really is cancelled. You or your formal supporter would share the cancellation with each other and with anybody else who knew about the SSDMA or had a copy of the SSDMA.

You may change an SSDMA by cancelling it and then making a new one that lets others know that your wishes have changed. You may also sign new release-of-information forms to let other supporters get information about you to help you make your own decisions.

#### **G. What if You are Having Problems Using an SSDMA?**

The law says other people - such as those at medical offices, hospitals, banks, and other businesses - and District agencies who receives an SSDMA must usually respect it. However, there are some exceptions to this rule. For example, if people have a good reason to believe that you are being abused, neglected, or exploited, they may not honor your SSDMA, and they may be required to report the situation to the police or Adult Protective Services.

The law creating the SSDMA is new, and so you may want help in making or cancelling it. You also may need help to make sure other people know about the new law and respect your SSDMA. If you want to ask for this kind of advocacy, you can contact:

- Quality Trust for Individuals with Disabilities, [jhip@dcqualitytrust.org](mailto:jhip@dcqualitytrust.org), 202-448-1448

## **SUPPORTED DECISION-MAKING AGREEMENT**

### **Pursuant to D.C. Official Code §§ 7-2131 to 7-2134**

**NOTE: According to D.C. Official Code § 7-2133, a person or a District agency who receives a supported decision-making agreement shall rely on the agreement, unless the person or District agency has substantial cause to believe that the supported person is an adult in need of protective services.**

**Neither a person nor a District agency shall be subject to criminal or civil liability, nor shall a person be considered to have engaged in professional misconduct, for an act or omission done in good faith and in reasonable reliance on a supported decision-making agreement.**

### **PART 1: Appointment of Supporter**

I, \_\_\_\_\_ (printed name of supported person), make this agreement of my own free will.

I agree to designate the following person as my supporter:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: (\_\_\_\_\_) \_\_\_\_\_ E-mail Address: \_\_\_\_\_

My supporter may help me with making everyday life decisions relating to the following (circle Y for Yes and N for No):

Y / N    applying for and maintaining supports and services including District government assistance

Y / N    obtaining food, clothing, and shelter

Y / N    taking care of my physical health

Y / N    taking care of my mental/behavioral health

Y / N    managing my financial affairs

Y / N    managing real property transactions

Any other duties as listed below:

\_\_\_\_\_  
\_\_\_\_\_

### **NOTHING IN THIS DOCUMENT GIVES MY SUPPORTER PERMISSION TO MAKE DECISIONS FOR ME.**

Nothing in this document prevents my supporter from also serving as a power of attorney or as a healthcare decision-maker.

To help me with decisions, my supporter may (circle Y for Yes and N for No):

Y / N Help me obtain information that is relevant to a decision, including medical, psychological, financial, educational, or treatment records;

Y / N When requested by me, be present to help me make my own decisions;

Y / N Help me understand my options so that I can make an informed decision; and

Y / N Help me communicate my decision to appropriate persons.

## **PART 2: Releases**

Y / N A release allowing my supporter to see and obtain protected health information under the Health Insurance Portability and Accountability Act of 1996 is attached.

Y / N A release allowing my supporter to see and obtain educational records under the Family Educational Rights and Privacy Act of 1974 is attached.

## **PART 3: Effective Date of Supported Decision-Making Agreement**

This Supported Decision-Making agreement is effective immediately and will continue until \_\_\_\_\_ (insert date) or until the agreement is terminated by my supporter or me or by operation of law.

## **PART 4: Signatures**

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (month), 20\_\_\_\_ (year)

### **Consent and Attestation of Supporter**

I, \_\_\_\_\_ (name of supporter), consent to act as a supporter under this agreement and affirm that :

1. I have not been found to have abused, neglected, or exploited \_\_\_\_\_ (printed name of supported person) by a government agency;
2. I have not been found to have inflicted harm upon a child, elderly individual, or person with a disability by an investigation of a government agency;
3. In the last 7 years, I have not been convicted of any sexual offense where the victim was a child, elderly individual, or person with a disability;

4. In the last 7 years, I have not been convicted of aggravated assault where the victim was a child, elderly individual, or person with a disability; and
5. In the last 7 years, I have not been convicted of fraud, theft in the first degree, forgery or extortion.

Signature of Supporter \_\_\_\_\_

Printed Name of Supporter \_\_\_\_\_

**Signature of Supported Person**

I, \_\_\_\_\_ (name of supported person), consent to have  
\_\_\_\_\_ (name of supporter) act as my supporter  
under this Agreement.

Signature of Person \_\_\_\_\_

Printed Name of Person \_\_\_\_\_

**Signature of Two Witnesses**

Signature of First Witness \_\_\_\_\_

Printed Name of First Witness \_\_\_\_\_

Signature of Second Witness \_\_\_\_\_

Printed Name of Second Witness \_\_\_\_\_

**NOTARY PUBLIC**

**(Not required if signed by two witnesses)**

This document was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_ (month and year)  
by \_\_\_\_\_ (name of person supported) and  
\_\_\_\_\_ (name of supporter).

Signature of Notary Public and notary seal, if any \_\_\_\_\_

Printed Name of Notary Public \_\_\_\_\_

My commission expires: \_\_\_\_\_

**WARNING: PROTECTION FOR PERSON SUPPORTED**

**IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT THE ADULT NAMED AS A SUPPORTED PERSON IS BEING ABUSED, NEGLECTED, OR EXPLOITED BY THE SUPPORTER, THE PERSON MAY REPORT THE ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE CITYWIDE CALL CENTER AT 311, METROPOLITAN POLICE DEPARTMENT AT 911, ADULT PROTECTIVE SERVICES AT (202) 541-3950.**

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